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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-57**

12 **SUZANNE DOROTHY ZYCHOWICZ**
13 **40242 Holden Circle**
14 **Temecula, CA 92591**

A C C U S A T I O N

15 **Registered Nurse License No. 354238**
Public Health Nurse Certificate No. 70004

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 31, 1982, the Board of Registered Nursing issued Registered
24 Nurse License Number 354238 to Suzanne Dorothy Zychowicz (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on November 30, 2012, unless renewed.

27 3. On or about April 3, 2006, the Board of Registered Nursing issued Public Health
28 Nurse Certificate Number 70004 to Respondent. The Public Health Nurse Certificate was in full

1 force and effect at all times relevant to the charges brought herein and will expire on November
2 30, 2012, unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code (Code) unless otherwise indicated.

7 5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
8 any licensee, including a licensee holding a temporary or an inactive license, for any reason
9 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

10 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
11 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
12 licensee or to render a decision imposing discipline on the license. Under section 2811,
13 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
14 years after the expiration.

15 STATUTORY PROVISIONS

16 7. Section 482 of the Code states:

17 Each board under the provisions of this code shall develop criteria to evaluate
18 the rehabilitation of a person when:

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

21 Each board shall take into account all competent evidence of rehabilitation
22 furnished by the applicant or licensee.

23 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
24 revoke a license on the ground that the licensee has been convicted of a crime substantially
25 related to the qualifications, functions, or duties of the business or profession for which the
26 license was issued.

26 9. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by a
28 board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who

1 holds a license, upon the ground that the applicant or the licensee has been convicted
2 of a crime substantially related to the qualifications, functions, and duties of the
3 licensee in question, the record of conviction of the crime shall be conclusive
4 evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

5 As used in this section, "license" includes "certificate," "permit," "authority,"
6 and "registration."

7 10. Section 2761 of the Code states:

8 The board may take disciplinary action against a certified or licensed nurse or
9 deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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15 11. Section 2762 of the Code states:

16 In addition to other acts constituting unprofessional conduct within the meaning
17 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

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19 (b) Use any controlled substance as defined in Division 10 (commencing with
20 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
21 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
22 extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription, consumption,
24 or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
25 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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COSTS

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (September 11, 2008 Criminal Conviction for DUI on June 9, 2008)

3 15. Respondent has subjected her license to disciplinary action under sections 490 and
4 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
5 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
6 follows:

7 a. On or about September 11, 2008, in a criminal proceeding entitled *People of the*
8 *State of California v. Suzanne Dorothy Zychowicz*, in Riverside County Superior Court, case
9 number SWM076862, Respondent was convicted on her plea of guilty of violating Vehicle Code
10 section 23152, subdivision(a), driving under the influence of alcohol, and Vehicle Code section
11 23152, alcohol (b), driving with a blood alcohol concentration (BAC) of 0.08% or more,
12 misdemeanors. The court found true that Respondent's BAC was .15 percent or more within the
13 meaning of Vehicle Code section 23578.

14 b. As a result of the conviction, on or about September 11, 2008, Respondent was
15 sentenced to three years summary probation, and ordered to complete a nine-month First
16 Offender DUI Program, pay \$1,488.40 in fees, fines, and restitution, and comply with the terms
17 of standard DUI probation.

18 c. The facts that led to the conviction are that in or about the early morning of
19 June 9, 2008, a woman contacted the Murrieta Police Department after she observed Respondent
20 drive into the parking lot of a convenience store/gas station in an erratic manner, and hitting the
21 curb as she parked. She then observed Respondent get out of her vehicle and nearly fall to the
22 ground as she stumbled into the business. Officers arrived and located Respondent in the
23 business purchasing a six-pack of beer. Respondent admitted she had consumed wine earlier.
24 The officers noted that Respondent displayed the objective symptoms of intoxication: blood shot,
25 watery eyes, slurred speech, an unsteady gait, and a strong odor of an alcoholic beverage on her
26 breath and person. Respondent submitted to a series of field sobriety tests which she was unable
27 to perform as explained and demonstrated by the officer. Respondent was arrested for driving

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1 under the influence of alcohol. Respondent provided a sample of blood that was analyzed with a
2 BAC of .23 percent.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Use of Alcohol in a Dangerous Manner)**

5 16. Respondent has subjected her registered nurse license to disciplinary action under
6 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about June 9,
7 2008, as described in paragraph 15, above, Respondent used alcoholic beverages to an extent or
8 in a manner that was potentially dangerous and injurious to herself, and to others in that she
9 operated a motor vehicle with a significantly high blood alcohol concentration.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Conviction of an Alcohol-Related Criminal Offense)**

12 17. Respondent has subjected her registered nurse license to disciplinary action under
13 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about
14 September 11, 2008, as described in paragraph 15, above, Respondent was convicted of a
15 criminal offense involving the consumption and/or self-administration of alcohol.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 354238, issued to Suzanne Dorothy Zychowicz;

2. Revoking or suspending Public Health Nurse Certificate Number 70004, issued to Suzanne Dorothy Zychowicz;

3. Ordering Suzanne Dorothy Zychowicz to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED:

July 25, 2011

for Anne Ber

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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